

UNIVERSITY OF TARTU
Faculty of Social Sciences
Johan Skytte Institute of Political Studies

Ann Saks

**Investigation of scrutiny of EU legislation, case study of
Belgium and the Netherlands**

Bachelor's Thesis

Supervisor: Stefano Braghioli, PhD

Tartu 2018

Olen koostanud töö iseseisvalt. Kõik töö koostamisel kasutatud teiste autorite seisukohad, ning kirjandusallikatest ja mujalt pärinevad andmed on viidatud.

.....

Ann Saks

Kaitsmine toimub/kuupäev/ kell/kellaaeg/
...../aadress/ auditooriumis/number/.

Retsensent: /nimi/ (...../teaduskraad/),
..... /amet/

Abstract

Current thesis will be investigating the different ways of scrutinising European Union legislation in the member states. Belgium and the Netherlands have been chosen to be the comparative cases in the current study in order to show the different outcomes of countries with similar background. The research asks what are the main ways of member states to become closely involved in EU affairs and what motivates the parliaments to get actively engaged. Theories on the scrutiny of EU legislation provide plenty of relevant reasons for close cooperation between the EU and member states. Belgium and the Netherlands have very different scrutiny mechanisms and the outcome also varies, with Belgian parliament always scoring lower than the Dutch one. Investigating the two cases brings out that the reasoning for countries is always individual and there is no universal way to evaluate the member states all together.

Table of contents

Introduction.....	4
1. Theoretical framework.....	8
1.1 Authority, ability and attitude.....	8
1.2 Europeanisation, (de-)parliamentarisation.....	9
1.3 Institutionalism.....	9
1.4 Principal-agent model and agency theory.....	10
2. Methodology.....	12
2.1 Research design.....	12
2.2 Instruments for EU scrutiny.....	13
2.3 Analytical considerations.....	14
2.4 Case selection.....	15
2.5 Data.....	15
3. Case comparison: Belgium and the Netherlands.....	17
4. Summary.....	23
Bibliography.....	25
Resümee.....	29

INTRODUCTION

The European Union (the EU) has strong political mechanisms for setting common standards across the member states. These mechanisms take the interests of all member states into account when deciding on new legislation. After the decision making processes, it is up to national parliaments to continue with the legislation. However, the implementation and scrutinising processes can be complicated and often fail to follow the initial deadlines.

This theses aims to investigate how active are the parliaments in the scrutiny of EU legislation and what are the reasons for different outcomes. The focus will be on two cases - Belgium and the Netherlands, looking at the scrutiny of EU legislation on national level to see their approaches and understand the differing outcomes. Combining national and European interests and standards can be a challenge, however, in a democratic system it should not be problematic. This topic is extremely important for understanding the actual capacity and importance of the EU level legislation.

The cases were chosen as examples of similar cases with a different outcome. Both Belgium and the Netherlands were among the founding countries in the European Coal and Steel Community and signed the Maastricht Treaty on 7 February 1992. Yet, despite a large amount of EU institutions being located in Brussels, Belgium fails to keep up with the EU standards, whilst the Netherlands in among the exemplary ones.

The main research questions inquire how is the EU legislation scrutinised in member states, how important role do the national parliaments have on deciding on EU legislation, and what are the reasons for different scrutiny levels of the member states. Hopefully, the two cases studied will help to gain understanding of the incentives and motivations of member states.

It is known that after the extensive overhaul in EU debates, institutional scrutiny provisions have become more similar in all member states (Auel & Christiansen 2015, 268), however, they are still not uniform. The administrative challenges that

the member states face need time and support to be solved. There are many discourses how democracy works on EU level, many stating that the existing institutions are democratically deficit. This can be observed by looking at the actions of national governments working beside the EU institutions. The concept of democracy is also something that can change depending on the context and is perhaps not the most essential in studying the relations between the EU and its member states.

The influence and power of individual states can appear in the way they are publicly presented. One possibility for gaining media coverage and political attention is holding the rotating presidency of the European Council. Both Belgium and the Netherlands have carried the European Council presidency chair for twelve times. That is quite an impressive number and it is known that the older member states tend to do a good job, be it due to experience or good power position. Holding the chair does not automatically indicate being deeply committed to EU affairs but it makes the governments much more involved and gives them a straight direction to address their political interests.

With the new institutional provisions that came into force with the Lisbon Treaty, the position of national parliaments has grown stronger - for example through the Early Warning system that will be explained further on. Nevertheless, there is no universal agenda when it comes to making decisions. Member states need to balance between the national, and EU level interests, as well as the political influences, non-institutional, and non-governmental interests. Maurer and Wessels describe it as “multi-level game” (Maurer and Wessels 2001, 33). Much of the focus is determined by the motivations of the Members of the European Parliaments (MEPs) and this will be one of the perspectives studied in this thesis.

Members of the Parliament (MPs) are usually considered as rational actors (Auel & Christiansen 2015, 269) - they make decisions that will advance their preference. There still remains the discussion if there is actual united European agenda that the MPs are following. Institutional and actor-centred factors are both important in

their operating in the EU, the question remains, what is the balance between ‘internal power’ and scrutiny of EU legislation?

Authors have argued for different motivations behind MPs and the extent of their influence in European affairs. Gattermann and Hefftlar look into the motivation and behaviour of European politicians in the Early Warning System (EWS). EWS is a recent change that provides parliaments with more extensive rights to intervene in EU policy-making (Gattermann & Hefftlar 2015, 305). The authors explain that so far the existing research has focused on the institutional capacity as the main determinant of submitting reasoned opinions within the EWS and propose that national parliaments’ political motivation also plays an important role. However, the additional drivers for participation remain unclear - there seems to be a combination of conditions that motivates governments to work.

Party political contestation plays a role inside the parliamentary chambers for their activity in the EWS (Gattermann & Hefftlar 2015, 319). The results of the research by Gattermann and Hefftlar indicate that the EWS is considered a channel to voice concerns (Gattermann & Hefftlar 2015, 321), not merely a technical procedure of judicial control. The length of EU membership also has a positive effect on the probability to submit a reasoned opinion (Gattermann & Hefftlar 2015, 322), so both the Netherlands and Belgium should show good figures here, but Belgian results appear modest in contrast to the relatively high activeness of the Dutch.

Eurosceptic Members of the Parliaments appear to be more incentivised in taking action on EU issues (Gattermann & Hefftlar 2015, 308), which can be explained by wanting to gain support from their voters at the next election. The voice of euroscepticism is very strongly heard in the public and the topic is very convenient for politicians to gain their ground.

National parliaments are also more likely to be interested in drafting new legislation rather than amending or repealing existing legislation (Gattermann & Hefftlar 2015, 308). New legislation implies high relevance and policy impact, hence the interest.

The country's economic condition is another important indicator in showing interest in EU matters. When the economic recession hit Europe in 2009, national parliaments were less incentivised to submit reasoned opinions on EU level (Gattermann & Heffler 2015, 310), keeping their focus on national issues. Stronger national focus during challenging times helps to build trust between the people and the government. MPs can benefit from this kind of behaviour in many ways - gaining support from voters and other party members.

The authors conclude that MPs' incentives and awareness are the main factors that encourage scrutiny in the EWS (Gattermann & Heffler 2015, 323-324). Political motivation hence seems to overpower the capacity in the matter of the degree in which the national parliaments become involved. Despite the short time period, the EWS has become a very useful tool for the national parliaments and administrations to influence EU affairs (Högenauer & Neuhold 2015, 336, 349). Especially important is the effect that administrations have within the national parliaments in promoting the discussion of European issues (Högenauer & Neuhold 2015, 351).

THEORETICAL FRAMEWORK

1.1 Attitude, authority, and ability

The theoretical framework was developed by Born and Hänggi, who used it to investigate parliamentary control over the use of military force (Born & Hänggi, 2004). The framework allows for in-depth comparisons between national parliaments whilst not neglecting their different practices and cultures (Huff 2015, 398). The authors used three criteria of attitude, authority, and ability as the basis for evaluating parliaments (Huff 2015, 398).

Introducing the framework, attitude contains political salience and party politicisation, domestic parliamentary culture (Huff 2015, 406). The rights, resources, and expertise alone are not sufficient to guarantee effective scrutiny procedures, political willingness to use the mechanisms and tools at their disposal is another crucial precondition (Born & Hänggi, 2005, 11). Attitude is more difficult to measure but it is considered the most important combining the function of the other two criteria.

Authority refers to the formal powers that are available to parliaments regarding legislation and scrutiny (Born & Hänggi, 2005, 4). Authority can be subdivided into budgetary control, *post hoc* powers, and *ex ante* powers (Huff 2015, 400-401). Born and Hänggi view scrutiny as an extremely important function of parliament, giving the parliament opportunity to hold the national government accountable for its activities (Born & Hänggi, 2005, 5). Scrutiny can be viewed as a way to compensate for the sidelining of traditional legislative functions. It is also known that for most parliaments the scrutiny role still appears to be a challenge. The ability to issue mandates remains the most potent instrument available to individual parliaments to exert influence over.

Ability is identified by support and resources available to parliaments (including staff and expertise) that enable them to make use of the formal authority (Huff 2015, 402). Usually parliaments have only small support staffs, whereas the

governments can rely on large bureaucracies. The lack of resources can restrict parliaments from collecting direct information on their own.

1.2 Europeanisation, (de-)parliamentarisation

Europeanisation is mainly seen in the larger scale adaption to the EU level: institutionalisation of European norms and values, and pursuing foreign policy on EU level. It can be argued what actually are the norms and values that are referred to as European. Quite often these are associated with multilateral interests, rather than national ones. Along with europeanisation, appears the concept of deparliamentarisation, which is considered a contradictory effect of integration (Goetz and Meyer-Sahling 2008, 4-5).

Deparliamentarisation debate has focused on the question whether European integration is causing reduction of importance of national parliaments (Buzogany 2010, 2). Both of these developments have been part of a move towards supranational state-building that also limits national sovereignty. Andrew Moravcsik agrees that the European integration is leading towards weakening parliamentary powers (1994), he sees the danger mainly in extensive international cooperation (Buzogany, 2010, 3). It is inarguable that national parliaments have ceded their powers both to the EU and also to the domestic executives (Goetz and Meyer-Sahling 2008, 5), however, this does not automatically make the national powers weaker. On the contrary, active participation in supranational decision-making can instead strengthen the position of national executives at the domestic level (Moravcsik 1994, Goetz and Meyer-Sahling 2008, 6).

1.3 Institutionalism (neo-institutionalism)

A number of papers conducted in the last two decades agree on the importance of domestic institutional strength and Euroscepticism as important factors regarding the institutional capacities of parliaments in EU affairs (Auel et al. 2015a, 286).

Buzogany (2010) brings out the neo-institutional theories that bring together different logics of action and factors, while not holding a too narrow of a focus. The three approaches are rational choice institutionalism, historical institutionalism and sociological institutionalism (Buzogany 2010, 9). The domestic and international levels are also differentiated, explaining the communication and connection between the two.

Rational choice institutionalism includes variables of the type of government, opposition parties and their influence, and also splits within governing parties (Buzogany 2010, 9). It is strongly focused on explaining how the rules of the parliament affect the behaviour of legislators (Hall and Taylor 1996, 944). The motivations of parliamentary actors are linked to cost-benefit calculations (Strelkvov 2015, 358) in order to find ways to maximise their gains. Euroscepticism within party groups can be one example of this kind of behaviour.

Historical institutionalism introduces the incremental nature of political change. The focus is put on the contingent temporal factors. Historical institutionalists state that at the heart of politics lies the conflict for scarce resources among rival groups (Hall and Taylor 1996, 937). From the path-dependency perspective, it is important to look at reactions of national parliaments to EU level changes (Buzogany 2010, 10). The approach proposes that parliamentary strength is the main if not the only necessary condition that makes a strong scrutiny system.

Sociological institutionalism underlines the public opinion towards the EU, the salience of European issues, and party positions. It is found that Eurosceptic public opinion is among the factors that explain tighter scrutiny procedures (Raunio, 2005).

1.4 Principal-agent model and agency theory

The principal-agent framework is built on the assumptions of rational choice institutionalism (Karlsson 2012, 1098), which state that political actors are rational and take into account the efficiency of their collective action. Hence, the

principal-agent model is used in the EU to ensure better results while trying to fulfil common interests. Due to the significance of the model in explaining scrutiny mechanisms, it stands here separately. Several studies have used the principal-agent model and agency theory when analysing parliamentary control in EU affairs. The model is suitable to characterise the relationship between countries and international organisations and has been increasingly employed in the study of the EU (Kassim & Menon 2003, 121). Similarly has the agency theory, which assumes that politicians care about both votes and policy (Saalfeld 2005, 349).

The relationships of principal and agent are created when one party enters into an agreement with a second party and the principal starts to delegate responsibility for its functions or tasks to the agent (Kassim & Menon 2003, 122). Delegation is important in many aspects, e.g. in improving the quality of policy when responsibilities are delegated to a special agent, also to displace some of the responsibility for unpopular decisions, and to overcome problems of collective action (Kassim & Menon 2003, 123). Moravcsik argues that the reallocation of control over political resources is in favour for those who most often participate in international negotiations (1994, 1).

METHODOLOGY

2.1 Research design

The paper is based on the analysis of previous studies focusing on the scrutiny aspects of EU legislation. The extensive literature provides sufficient information to map the characteristics of Belgian and Dutch parliaments in EU affairs. The research paper follows the MSSD logic, investigating two very similar systems with different outcomes.

There are plenty of theories applied to relationship between EU institutions and its member states. The theories used in the paper appeared the most applicable to make a compact framework to understand the positions of the parliaments. The information gathered after the ratification of the Lisbon Treaty, the latest treaty change in the EU, appear the most relevant. The treaty changes are an important topic for many authors, who often emphasise that the effect is still very recent and needs time and further research to provide more reliable results.

The research is based on the two main questions.

1. How is the EU legislation scrutinised in the member states?

Four outstanding theories of scrutinising EU legislation are presented in the first part of the paper. The analysis part presents the scrutiny instruments and models based on the findings of Mastenbroek et al. (2014b), Buzogany (2010), and Karlas (2012), which allow to compare the cases of Belgium and the Netherlands.

2. How important role do the national parliaments have on scrutinising EU legislation?

This question will be answered by looking at the scrutiny usage of the two countries selected for this paper. The analysis will compare the results of Belgian and Dutch parliaments in their actions and power positions in EU, and interest in scrutinising EU legislation. The background comes from research papers investigating EU power mechanisms. Investigating the government system, attitude towards the EU,

motivation of the members of the parliament, and national interests in EU affairs helps to understand where do the differences in the cases emerge.

2.2 Instruments for EU scrutiny

Mastenbroek et al. differentiate common instruments used by parliaments to scrutinise within the EU policy making process (2014b, 24). Indirect instruments refer to the control of the national government in EU affairs, e.g. participating in the Council of European Union. This is often identified as the most crucial task in the scrutiny process. Other indirect means include appearing in the European Council plenary and also asking questions in the parliaments and evaluating reports on the positions of governments (Mastenbroek et al. 2014b, 24-25). It is not uncommon for parliaments to use special instruments that appear useful in their system.

Direct instruments include reasoned opinions, political dialogue, and subsidiarity checks (Mastenbroek et al. 2014b, 25). The scrutiny procedure in national parliaments usually takes place during the legislative phase of decision making in the EU. However, some parliaments try to do it during the pre-legislative phase, scrutinising also the consultation documents, Green and White Papers. With treaty changes, the instruments of scrutiny are also adjusted, but applying them is still dependent on the parliamentary will of getting involved. For example, the parliaments differ to a great extent in the level of plenary involvement (Mastenbroek et al. 2014b, 27).

The instruments of reasoned opinions (EWS) and political dialogue are the newest common ones in the EU arena (Mastenbroek et al. 2014b, 27) and their application is slowly but steadily increasing. Parliaments are expected to give a reasoned opinion in case it is considered that the proposal in question disobeys the principle of subsidiarity (Mastenbroek et al. 2014b, 23). Studies show that the political dialogue is used more often than reasoned opinions.

Buzogany divides the scrutiny procedures of Member States not to instruments, but into two models. The difference emerges in their structural attributes, the “bindingness” for the governments, and the inclusion of other parliamentary committees (2010, 3-4). The document-based model puts the focus on the procedures of parliamentary scrutiny. It does not try to take control of the governments’ activity in Brussels but has an impact based on deliberation in parliamentary hearings and issuing expert opinions. The best example of this is the United Kingdom’s House of Lords, that comes up with policy advice that helps to shape EU directives.

The second scrutiny model is called the mandating-model. The most suitable example here would be the Danish Folketing that is known for its minority governments. This explains the model: weak governments encountered by a strong parliament, focusing on the output - a strong position in the European Council. In the model, the parliaments are capable of forcing governments to change their positions through issuing mandates or giving strong voting recommendations.

2.3 Analytical considerations

There is very extensive literature in the many aspects of EU affairs, mainly critical approaches to the influence of the Union. The national differences are often sought to understand through investigating member states all together or differentiating them based on the accession time. The continuing trend with these studies is that they struggle to actually make a compelling generalisation. Narrowing the cases down to two countries can help to give more thorough ground to the topic.

Generally it appears that there is little agreement whether national parliaments actually play a significant role in European policy-making (Auel et al. 2015a, 282). However, recent years have seen multiple changes and growing effort towards being more involved in EU affairs. National parliaments have established committees and obtained extended rights for being a part of European legislative

proposals. It is essential to look into the trends that are emerging among national parliaments, especially with regard to the new tools for scrutiny in EU affairs.

It is important to consider that only studies that include both countries in their research can be considered appropriate for the current paper. Individual reports can be useful to gather information and opinions but the data is not applicable for comparison. The four theories of scrutinising EU legislation help to get an overview of the background of the issue. However, it is a possibility that contrasting the theories with empirical findings will not present any useful findings to understand the cases better.

2.4 Case selection

There are studies that have classified national parliaments in terms of the institutional strength in EU affairs. North European countries, as well as the Netherlands, Austria and Germany are considered strong parliaments. At the same time, Southern members states, such as Portugal, Spain, Cyprus, Greece, and Malta but also Belgium and Luxembourg, are classified as weak (Auel & Christiansen 2015, 268).

Belgium and the Netherlands very clearly stand out as similar cases - both small and wealthy Western countries, the founding members of the EU - with different outcomes. Looking at two countries that appear very close and alike, yet perform extremely differently in dealing with EU affairs, it is important to look into to get an understanding of the phenomenon. Belgium and the Netherlands are very interesting cases, because there are no two other countries in the EU that are this similar but have extremely different mechanisms for dealing with EU affairs. So far there are there is little research done investigating those two countries in detail, which gives importance to this thesis.

2.5 Data

The research relies on primary and secondary data, including reports, scholarly literature, such as empirical studies and theses. The paper does not produce any original data, but presents information gathered from various papers that have looked into the scrutiny of EU member states throughout the years.

CASE COMPARISON

Belgian legislature takes place in the Federal Parliament, which consists of the lower house Chamber of Representatives (*Chambre des Représentantes*) and the upper house Senate (*Sénat*). Dutch parliament States General of the Netherlands consists of the lower house *Tweede Kamer* and the upper house *Eerste Kamer*. In both countries, the chambers play a separate role in EU scrutiny, with different rules and practices.

In Belgian Chamber of Representatives and both Dutch chambers, it is obligatory to adopt all reasoned opinions (Mastenbroek et al. 2014b, 27). In Belgian *Sénat*, it is important to have proactive dialogue with the government as a way to implement indirect control of scrutiny processes (Mastenbroek et al. 2014b, 24). The EU coordination system of the Dutch House of Representatives, the *Tweede Kamer*, is seen as strong (Mastenbroek et al. 2014b, 9).

The country's EU coordination system is based on the following principles:

“(1) *timely input into EU decision making*, (2) *prioritization*, and (3) *decentralized responsibility*” - Mastenbroek et al. 2014b, 9

The *Tweede Kamer* has for a long time shown interest in being pro-actively part of the EU policy making process. The scrutiny starts with the systematic prioritisation of European Commission proposals on the basis of their annual Work Programme. Another instrument consists of responding to consultation documents (e.g. Green and White Papers). The Dutch scrutiny system treats EU legislation equally to national bills (Mastenbroek et al. 2014b, 10-11). It is not rare to use regular parliamentary instruments such as hearings with experts, technical briefings.

The Dutch have come up with a strong instrument to scrutinise EU legislation: parliamentary scrutiny reserve (Mastenbroek et al. 2014b, 13-14), which was initiated after the Lisbon Treaty came into force. This gives the *Tweede Kamer* an option to ask the government not to make final decisions in negotiations within two months after the publication of a legislative proposal by the Commission. During the timeframe of 2010-2013 the *Tweede Kamer* adopted 17 scrutiny reserves.

Another important tool used is the EWS that the Dutch refer to as the “subsidiarity test” (Mastenbroek et al. 2014b, 12) and started testing already in the 1990s. The report by Mastenbroek et al. finds that despite the pro-activity, it is complicated to actually use the developed instruments because of lack of good information about the early stages of decision making in the Council and varying level of political commitment (Mastenbroek et al. 2014b, 22).

Eerste Kamer takes a strict legal stance concerning the subsidiarity checks, while *Tweede Kamer* is more willing to use it as a political tool between political groups. The *Tweede Kamer* uses a decentralised system for subsidiarity tests, whereas Belgian parliament carries out highly complicated procedures, differentiating EACs, sectoral committees, and several administrative levels (Mastenbroek et al. 2014b, 26).

These findings show that both parliaments have their own mechanisms how they handle the scrutiny processes. The Dutch ones are more outstanding in its comprehensive actions, making a good use of the existing instruments, as well as developing its own. It has been found that parliamentary party groups play an important role in the outcomes of the scrutiny process (Strelkov 2015). The focus of the party groups stays on the division of competences in the EU and member states.

Table 1 introduces the number of direct scrutiny instruments used in both countries. The data is obtained from multiple sources including Eurobarometer editions and scholarly papers (Mastenbroek et al. 2014b, 128). The numbers of *Table 1* show much more activity from the Dutch parliament. Belgium’s results appear modest, except for the political dialogue in the Lower Chamber. If the number of instruments used were to be compared per country, not per chamber, the results would be more contrasting, the Dutch parliament scoring twice the numbers than Belgian.

Table 1. Use of scrutiny instruments 2010-2013. Source: Mastenbroek et al. 2014b, 109-110

	Dutch Upper	Dutch Lower	Belgium	Belgium
--	-------------	-------------	---------	---------

	Chamber	Chamber	Upper	Lower
Reasoned opinions 2010-2013	10	14	5	5
Political dialogue 2010-2013	32	18	3	17

What can be concluded from this table, is that the Dutch have adopted the new scrutiny instruments to a greater deal and perhaps take this responsibility more seriously. The results of Belgium can raise concerns, but it does not fall that much behind the EU average (Mastenbroek et al. 2014b, 29). Perhaps the results of the Dutch can be considered deviant instead.

Table 2: The strength of parliamentary scrutiny. Source: Buzogany 2010, 7

Country	Involvement of Specialised Committees	Access to Information	Voting Instructions	Scrutiny Scores
Belgium	Weak	Moderate	Weak	0.17
Netherlands	Moderate	Moderate	Moderate	0.5

The comparative scale for the scrutiny mechanisms is developed by Buzogany (2010) when investigating the scrutiny procedures of new member states and the findings show that new member states tend to score stronger than the old ones, which is mostly attributed to higher motivation. Belgian and Dutch results here are both relatively low, once again the Dutch parliament scoring more than twice the number of the Belgian parliament. The low outcome can be attributed to the higher effect of the new scrutiny instruments that are more likely to be used by new member states, whereas the old states stay true to the old instruments.

The intensity of involvement of specialised committees in *Table 2* is based on the Statutes of National Parliaments or Rules of Procedures. The second sub-variable

refers to the timing and scope of access of information. The voting instructions refers to the “consultative” and “politically binding” categories. The three sub-variables were computed to a score presented in the last column (Buzogany 2010, 6-7).

The weak involvement of specialised committees in the Belgian parliament refers to the document-based model of scrutiny. Concurrently, the strong involvement in Dutch parliament attaches it to the mandating-based model. The difference emerges in the focus on information processing and content in Belgium’s case and on output in the Dutch one. This result coincides with the former finding, that Dutch activities stand out in the formal scrutiny instruments.

The scrutiny strength results, however, appear surprising, especially in terms of Netherlands’ low performance on the scrutiny strength, scoring only moderate results. Belgium continues on a much lower level of the spectrum. It can be argued that the extensive clench of EU legislation system has been the cause of lacking debate over EU affairs in national parliaments (Buzogany 2010, 8). For older member states, the scrutiny processes can become tedious and disturbing factors in their every day workings, hence the lower results.

Being a part of the EU structure, national parliaments have delegated a share of their legislative function to the European level and in order to compensate that, they have established provisions to scrutinise their government’s EU policy (Auel et al. 2015a, 284). The institutional strength is important both in delegation and in scrutinising the policies.

Table 3. Score of formal institutional strength. Source: Auel et al. 2015a, 293.

	Belgium	Netherlands
Score of institutional strength in EU affairs 2010-2012	0.24	0.66

The score of institutional strength measures the strength of the parliaments in EU affairs. The score is based on indicators including access to information, parliamentary infrastructure, and scrutiny and influence rights (Auel et al. 2015a, 293). Once again, Belgium shows modest results, while the Netherlands scores above average. The parliamentary institutional strength in EU affairs has a critical impact on all of the activities that take place in the EU level (Auel et al. 2015a, 298). Low score indicates possible difficulties that can emerge when trying to scrutinise the governments.

Table 4. Behavioural regularities of parliaments. Source: Karlas 2012, 1101-1102.

	Belgium	Netherlands
Scope	1	2
Decentralisation	1	2
Influence mechanisms	0	1.5
Binding character	0	0
Upper chamber	0	1
Aggregated value	2	6.5

Table 4 presents the variables for evaluating the control of governments in national parliaments. Control of governments is seen as a crucial instrument of indirect scrutiny in EU affairs. The explanation for the information presented in the *Table 4* is derived from Karlas (2012, 1101-1102).

The first four variables deal with lower chambers. The score in the scope of Belgium refers to the systematical scrutiny of government's negotiation positions or EU legislative proposals, whereas the score for the Netherlands means that both the governments' negotiating positions and EU legislative proposals are being systematically scrutinised. The decentralisation score implies that the Belgian parliament occasionally involves other standing committees besides the European Affairs scrutiny and the Dutch one involves the standing committees regularly.

The score of the influence mechanisms shows that the Dutch parliament uses the scrutiny reserves, while at the same time Belgian one does not, nor does it have the formal authority to adopt mandates. As the score for binding characters is 0 for both parliaments, it means that the governments do not have requirements to consult with the parliaments in case they do not follow the national parliaments' opinion. The upper chambers' value indicates that the Dutch upper value has a positive value on the influence mechanism or binding character, whereas the Belgian one does not. These results are quite similar to the variables of the lower chamber. These results once again present the stronger position of the Dutch parliament.

SUMMARY

Based on the findings, it is clear that the attitude of individual parliaments plays an important role in the level of scrutiny of EU affairs. The toolkit that is prepared by the EU institutions can be considered sufficient for the parliaments that are interested in becoming deeply involved. The cases propose a remarkable difference between a involved and uninvolved parliament in EU affairs. Having enough support from the system (ability) and enough political power (authority) does not play a role in the instance where attitude is missing.

It is worth to mention that strong parliaments are much better equipped to put emphasis on both the national and European agenda. Like the effectiveness of European Council presidency is often considered to be in a positive correlation with the level of experience, such is the activeness of scrutinising EU legislation expected to be in correlation with the tenure of being part of the EU. Current findings, however disagree with the statement. In summary, it appears that even when considering two countries, it is difficult to see the common ground for taking actively part in the EU affairs. Belgium and the Netherlands have very different approaches to scrutinising EU legislation, Belgium focusing on the indirect aspects of the process and the Netherlands on the direct ones.

Despite the wide variety of literature available on the topic, the paper comes to conclude that the actions of member states in the EU are still quite unpredictable. Different motivations for parliaments to act can be analysed, but they are not sufficient to gain sufficient knowledge of the actual situation. The level of involvement is constantly changing and this can partly be attributed to the treaty changes and the characteristics of parliaments. However, as the experience shows, there is much more influence from the workings than the theories can comprehend. The theoretical approaches help to understand the basis of what drives parliaments to act but the final outcomes depends on the individual examples.

The thesis reached its purpose identifying the characteristics of Belgian and Dutch ways of scrutiny. Belgian parliaments' focus is more on the formal aspects of the scrutiny mechanisms, putting the effort on processing information and discussions

in committees. Dutch parliaments on the other hand are very quick to adjust to the new mechanisms that are disproportionately much more researched, hence the stronger results.

Undoubtedly, the topic could be investigated more thoroughly and with different focus in the centre. However, this thesis intends to provide a starting point for further investigation in the different scrutiny approaches of the two countries. A modest recommendation for further research would suggest to focus more on the national aspects of policy making that could affect the outcome on policy making.

Bibliography

- Auel, K. & Christiansen, T. 2015. "After Lisbon: National Parliaments in the European Union". *West European Politics*, 38(2), 261–281. DOI: 10.1080/01402382.2014.990693
- Auel, K., Rozenberg, O. & Tacea, A. 2015a. "To Scrutinise or Not to Scrutinise? Explaining Variation in EU-Related Activities in National Parliaments." *West European Politics*, 38(2), 282–304. DOI: 10.1080/01402382.2014.990695
- Auel, K., Tacea, A. & Rozenberg, O. 2015b. "Fighting Back? And, If So, How? Measuring Parliamentary Strength and Activity in EU Affairs." In C. Neuhold, O. Rozenberg, C. Heffler, and J. Smith (Eds.), *The Palgrave Handbook of National Parliaments and the European Union*. Palgrave Macmillan UK.
- Bergman, T. 2000. "The European Union as the next step of delegation and accountability." *European Journal of Political Research*, 37, 415-429.
- Born, H. & Hänggi, H. (Eds.) 2004. *The "Double Democratic Deficit": Parliamentary Accountability and the Use of Force Under International Auspices*. Aldershot: Ashgate.
- Born, H., & Hänggi, H. 2005. "The Use of Force Under International Auspices: Strengthening Parliamentary Accountability." *Geneva Centre for the Democratic Control of Armed Forces*, DCAF Policy Paper 7, 1-22.
- Bursens, P. & Högenauer, A.-L. 2017. "Regional parliaments in the EU multilevel parliamentary system." *Journal of Legislative Studies*. 23(2), 127-143. DOI: 10.1080/13572334.2017.1329984
- Buzogany, A. 2010. "Learning from the Best. Inter-parliamentary policy learning and EU parliamentary scrutiny design in the EU", 10. *European Consortium for Political Research (ECPR)*, 1-24. Retrieved from <https://ecpr.eu/Filestore/PaperProposal/fd5934ad-8676-40ad-bfcd-05455fc8ca87.pdf>
- Cini, M. & Pérez-Solórzano Borragán, N. 2016, *European Union politics*. Oxford: Oxford University Press, 5th ed.

- de Ruiter, R. 2015. "Houses of Abstention or Houses of Reflection? Upper Houses in EU Member States and the Ex ante Scrutiny of EU Legislation." *Journal of European Integration*, 37(3), 391-407. DOI: 10.1080/07036337.2014.990007
- European Commission. 2014. "The European Union explained: how the EU works", Manuscript updated in November 2014, 1-43.
- Fabbrini, F. 2013. "Enhanced Cooperation under Scrutiny: Revisiting the Law and Practice of Multi-Speed Integration in Light of the First Involvement of the EU Judiciary." *Legal Issues of Economic Integration*, 40(3), 197-224.
- Gattermann, K. & Heffler, C. 2015. "Beyond Institutional Capacity: Political Motivation and Parliamentary Behaviour in the Early Warning System", *West European Politics*, 38(2), 305-34.
- Goetz, K. H., and Meyer-Sahling, J. H. 2008. "The Europeanisation of national political systems: Parliaments and executives", *Living Reviews in European Governance*, 3(2), 1-30.
- Hall, P. A., and Taylor, R. C. R. 1996. "Political Science and the Three New Institutionalisms." *Political Studies*, 44, 952-973.
- Hix, S. 2013. *What's wrong with the Europe Union and how to fix it*. Oxford: Wiley.
- Högenauer, A.-L. & Neuhold, C. 2015. "National Parliaments after Lisbon: Administrations on the Rise?", *West European Politics*, 38(2), 335-354. DOI: 10.1080/01402382.2014.990698.
- Howarth, D. R. & Torfing, J. 2005. *Discourse Theory in European Politics: Identity, Policy and Governance*. Basingstoke & New York: Palgrave Macmillan.
- Huff, A. 2015. "Executive Privilege Reaffirmed? Parliamentary Scrutiny of CFSP and CSDP", *West European Politics*, 38(2), 396–415.
- Karlas, J. 2012. "National Parliamentary Control of EU Affairs: Institutional Design after Enlargement", *West European Politics*, 35(5), 1095–1113, DOI: 10.1080/01402382.2012.706412.
- Kassim, H. and Menon, A. 2003. "The principal–agent approach and the study of the European Union: promise unfulfilled?", *Journal of European Public Policy*, 10(1), 121-139.

- Klapwijk, B. & Snippe, J. 2017. "Scrutiny & Control in EU Affairs: the Dutch Parliament", *University of Twente, Westfälische Wilhelms-Universität Münster*, 1-61.
- Mastenbroek, E., Spendzharova, A. & Versluis, E. 2014a. "Clawing Back Lost Powers? Parliamentary Scrutiny of the Transposition of EU Social Policy Directives in the Netherlands", *West European Politics*, 37(4), 750-768, DOI: 10.1080/01402382.2014.919774.
- Mastenbroek, E., Zwaan, P. J., Groen, A., Meurs, W. P. van, Reiding, H., Dörrenbächer, N. & Neuhold, C. 2014b. "Engaging with Europe. Evaluating national parliamentary control of EU decision making after the Lisbon Treaty. Part I: Report of findings", *Institute for Management Research, Radboud University Nijmegen*, 1-135.
- Maurer, A. and Wessels, W. 2001. *National Parliaments on their Ways to Europe. Losers or Latecomers?* A. Maurer and W. Wessels (Eds.). Nomos Verlagsgesellschaft Baden-Baden. Retrieved from <http://aei.pitt.edu/1476/>
- Moravcsik, A. 1994. "Why the European Union Strengthens the State: Domestic Politics and International Cooperation." *Cambridge, MA: Center for European Studies*, 52, 1-78.
- Munro, R., White, H, Borjes, L. 2016. "Parliamentary Scrutiny of European Union Legislation", *Institute for Government*, 1-40.
- Peters, Y. & Tatham, M. 2016. *Democratic transformations in Europe: challenges and opportunities*. London & New York: Routledge.
- Ranfdour, F. and Wolfs, W. 2017. "Belgian regional parliaments and the European Union: an analysis of parliamentary scrutiny in agricultural and environmental policies", *The Journal of Legislative Studies*, 23(2), 221-237, DOI: 10.1080/13572334.2017.1329988.
- Raunio, T. 2005. "Holding Governments Accountable in European Affairs: Explaining Cross-National Variation." *Journal of Legislative Studies*. 11(34), 319-342.
- Saalfeld, T. 2005. "Deliberate delegation or abdication? Government backbenchers, ministers and European Union legislation", *The Journal of Legislative Studies*, 11(3-4), 343-371. DOI: 10.1080/13572330500273547

Strelkov, A. 2015. "Who Controls National EU Scrutiny? Parliamentary Party Groups, Committees and Administrations", *West European Politics*, 38(2), 355-374.

Vahtramäe, L. 2017. "Parliamentary scrutiny of the EU's Common Foreign and Security Policy: a Comparison of Estonian Riigikogu and Finnish Eduskunta", Master's thesis. *University of Tartu*.

Winzen, T. 2012. "National Parliamentary Control of European Union Affairs: A Cross-National and Longitudinal Comparison", *West European Politics*, 35(3), 657-72.

Uurimus Euroopa Liidu seadusandluse kontrollist, juhtumianalüüs Belgia ja Hollandi näitel

Ann Saks

RESÜMEE

Euroopa Liidu seadusandluse käsitlemine liikmesriikide seas on pikalt esinenud avalikus diskussioonis, eriti küsimustega, kui efektiivne see on. Käesolev uurimistöö otsib vastust küsimustele, kuidas liikmesriikides Euroopa Liidu seadusandlust kontrollitakse ja kui olulist rolli mängivad rahvuslikud parlamendid ELi seadusandluse üle otsustades.

Uurimise alla tulevad kaks riiki Euroopa Liidud institutsioonide keskel - Holland ja Belgia - mis on ELi seadusandlust käsitledes väga erinevad. Hollandit peetakse edukaks seadusandluse kontrollijaks, samal ajal kui Belgia tulemused jäävad tagasihoidlikuks. Kuna riigid on oma olemuselt sarnased, olles mõlemad ka Liidu asutajariikide seas, siis on säärane erinevus silmajääv. Autor üritab välja selgitada, mis on sellise erinevuse põhjus ja kas see erinevus võimaldab ka mõista, kuidas riigid üldse saavad seadusandluse kontrollis kaasa lüüa. Lissaboni lepingu ratifitseerimisega 2009. aastal tuli kaasa ka mitmeid uusi seaduandluse kontrolli instrumente ja nende kasutusele võtmine või mitte võtmine lubab samuti liikmesriikide huvidest aru saada.

Teoreetikud toovad välja palju erinevaid põhjuseid, mille alusel riigid ELi seadusandlust kontrollivad ja mis on kontrolli eesmärk. Uurimistöös käsitletakse Born & Hänggi väljatöötatud raamistikku autoriteedi, oskuse ja suhtumise kohta. Liaks käsitletakse euroopaniseerumise ja (de)parlamentariseerimise, insitutsionalismide ja printsipaal-agent teooriat. Uurimuse raamistikuks on välja toodud kontrolli instrumendid, mille rakendamist saab mõlema riigi puhul vaadelda ning võrrelda.

Uurimistulemused võimaldavad arvata, et Euroopa Liidu seadusandluse kontroll on väga individuaalne ja sõltub just parlamendi sisesest võimekusest ja tahtest. Hollandi ja Belgia näited on olulised just mõistmaks ELi mitmetahulisusest. Eriilmelised kontrollimehhanismid annavad teadmise, et seadusandluse kontroll ei ole kindlasti mitte iseeensest mõistetav, kuigi kauaaegsete liikmesriikide puhul võiks seda eeldada. Tegelikult aga paljastub, et uudsuse kadumisega kaob ka vajadus ennast tõestada, seega pole nendes riikides ka suurt vajadust end ELi asjadega valijate ees tõestada.

Euroopa Liidu kontrollimehhanism on kindlasti väga huvitav ja oluline teema, mida ka tulevikus uurida, eriti uute instrumentide arengu koha pealt. Kui käesolevaid juhtumeid ka edaspidi uurida, siis võiks lähenemine kaasata rohkem ka rahvuslikke komponente, pannes rõhku riikide eripärale.

Lihtlitsents lõputöö reprodutseerimiseks ja lõputöö üldsusele kättesaadavaks tegemiseks

Mina, Ann Saks (isikukood: _____),
annan Tartu Ülikoolile tasuta loa (lihtlitsentsi) enda loodud teose

“Uurimus Euroopa Liidu seadusandluse kontollist, juhtumianalüüs Belgia ja Hollandi näitel”, mille juhendaja on Stefano Braghiroli (PhD),

1. reprodutseerimiseks säilitamise ja üldsusele kättesaadavaks tegemise eesmärgil, sealhulgas digitaalarhiivi DSpace-is lisamise eesmärgil kuni autoriõiguse kehtivuse tähtaja lõppemiseni;
2. üldsusele kättesaadavaks tegemiseks ülikooli veebikeskkonna kaudu, sealhulgas digitaalarhiivi DSpace'i kaudu kuni autoriõiguse kehtivuse tähtaja lõppemiseni;
3. olen teadlik, et punktis 1 nimetatud õigused jäävad alles ka autorile;
4. kinnitan, et lihtlitsentsi andmisega ei rikuta teiste isikute intellektuaalomandi ega isikuandmete kaitse seadusest tulenevaid õigusi.

Tartus, _____ (kuupäev)

(allkiri)